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Attorneys for Defendants Builteman, Richey, and Scribner

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

VENSON LANE MYERS, Plaintiff,	08CV0117 W (WMc)
v.	**DECLARATION OF D. BELL IN SUPPORT OF DEFENDANTS' MOTION TO DISMISS**
L.E. SCRIBNER, et al., Defendants.	Hearing: Time: Courtroom: C Judge: The Honorable William McCurine, Jr.

I, D. BELL, declare as follows:

1. I make the following declaration of facts based on my own knowledge and, if called, can testify competently thereto.

2. I have worked for the California Department of Corrections and Rehabilitation (CDCR) for sixteen years. Since January 2005, I have been employed as the Appeals Coordinator at the Calipatria State Prison (Calipatria) in Calipatria, California, which receives inmate appeals submitted for formal level review at the institutional level. I am familiar with

CDCR's inmate appeals process and the processing of inmate appeals at Calipatria.

3. The California Code of Regulations, Title 15, § 3084.1(a), Right to Appeal, states, "Any inmate or parolee under the department's jurisdiction may appeal any departmental decision, action, condition, or policy, which they can demonstrate as having an adverse effect upon their welfare."

4. There are four levels of appeal review; one (1) informal and three (3) formal levels of appeal (California Code of Regulations, Title 15, §3084.5). The informal level of review requires the inmate to attempt a resolution directly with prison staff on an informal basis within 15 working days of the event or decision being administratively grieved. If the issue is not resolved at the informal level, the inmate may appeal to the first formal level of review, which is submitted to the Division Head level or his/her designee. If the inmate is not satisfied with the first formal level response, he may submit for a second level of review. The second level of review is conducted by the Institution Head or his/her designee. If the inmate is not satisfied with the second level response, the third level of review constitutes the CDCR Director's decision on an appeal. An inmate must appeal to the first formal level and subsequent levels of review within 15 working days of receiving a lower level decision if he is dissatisfied. Cal. Regs. tit. 15, § 3084.6(c).

5. When an appeal is properly submitted at the formal level, it is immediately assigned a log number – regardless of its disposition – for tracking purposes and to prevent inmates from asserting staff lost the appeal. If an appeal is not properly or timely submitted, it will not be filed, but is instead "screened-out" and returned to the inmate with written instructions on how to cure the defects, if possible.

6. The California Attorney General's Office requested this Office search our records to ascertain if inmate Venson Myers, CDCR No. C-26900, has filed any inmate appeals pertaining to allegations of interference with religious freedom by Defendants Scribner, Builteman, or Richey.

7. A thorough search of our records, which are kept in the ordinary course of business at or near the time this Office receives an inmate appeal, revealed that Plaintiff timely

submitted and this Office processed the following appeals:

a) On October 16, 2007, this Office received an appeal from inmate Plaintiff pertaining to Plaintiff's request that the Christian Community at Calipatria State Prison's Facility A be afforded to host the religious diet on December 8, 2007; and that Calipatria acknowledge that the Protestant Religion Services were arbitrarily canceled on October 13, 2007, in order to afford the Muslim inmates a closing ceremony for the month of Ramadan. The appeal was assigned Appeal Log No. CAL-A-07-01891. On December 12, 2007, the appeal was granted in part at the First Level of review. Plaintiff did not submit the appeal to the next level of review.

b) On April 27, 2006, this Office received an appeal from Plaintiff regarding a property issue. The appeal was assigned Appeal Log No. CAL-A-06-01122. On June 28, 2006, the appeal was denied. Plaintiff did not submit the appeal to the next level of review.

c) On April 11, 2006, this Office received an appeal from Plaintiff at the second level of appeal, regarding a program issue. The appeal was assigned Appeal Log No. CAL-A-06-00814. On May 30, 2006, the appeal was denied.

d) On February 4, 2005, this Office received an appeal from Plaintiff, regarding an ADA issue. This appeal was assigned Appeal Log No. CAL-A-05-00081. On March 2, 2005, the appeal was denied. Plaintiff did not submit the appeal to the next level of review.

e) On December 17, 2004, this Office received an appeal from Plaintiff, regarding staff complaints. The appeal was assigned Appeal Log No. CAL-A-04-01650. On April 18, 2005, the appeal was granted in part. Plaintiff did not submit the appeal to the next level of review.

f) On December 6, 2004, this Office received an appal from Plaintiff, regarding a work incentive issue. The appeal was assigned Appeal Log No. CAL-A-04-01616. On January 18, 2007 the appeal was denied. On February 2, 2005, Plaintiff submitted this appeal to the second level of review. On March 17, 2005, this appeal was granted in part after review at the second level.

g) On January 15, 1999, this Office received an appeal from Plaintiff, regarding a disciplinary issue. The appeal was assigned Log No. CAL-A-99-00049. On March 25, 1999, the appeal was granted.

8. This Office has not processed or accepted for review any appeals filed by Venson Myers, CDCR No. C-26900, pertaining to allegations of interference with his religious freedom by Defendants Scribner, Builteman, or Richey.

9. A thorough search of records, which are kept in the ordinary course of business at or near the time this office receives an inmate appeal, show that this office screened-out only one appeal from 1999. The appeal is not relevant to the allegations in this case.

a). On June 6, 2008, this Office received an appeal from Plaintiff, regarding a property issue. On June 6, 2008, the appeal was rejected and not processed/filed ("screened-out") because Plaintiff failed to attach necessary documentation to the appeal.

b) On July 2, 2008, this Office received an appeal from Plaintiff, regarding a property issue. On July 2, 2008, the appeal was rejected and not processed/filed ("screened-out") for failure to comply with the fifteen-day regulatory period prescribed by California Code of Regulations, title 15, § 3084.6(c).

10. The Calipatria Inmate\Parolee Appeals Tracking System Level I & II (IATS) printout for Venson Myers, CDCR No. C-29600 attached hereto as Exhibit A shows all appeals that have been submitted to the appeals office by Plaintiff.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct.

Executed this 31st day of July 2008, in Imperial, California.

D Bell, CCII
D. BELL

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SD2008700631

Myers, Venson Lane v. Scribner, et al.
USDC, Southern District Case No. 08CV0117 W (WMc)

EXHIBIT A

Inmate/Parolee Appeals Tracking System - Level I & II
Venson Myers, CDCR No. C-29600

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Calipatria State Prison 07/23/2008

CALIFORNIA DEPARTMENT OF CORRECTIONS

Inmate / Parolee Appeals Tracking System - Level I & II

Statistic Sheet

Log Number: CAL-A- **Area Of Origin:** PROPERTY A **Last Name:** MYERS **First Name:** VENSON **CDC Number:** C29600

Housing At Time Of Appeal: FA030000000000114U **Group Appeal:**
Current Housing: FA030000000000114U **Issue:** PROPERTY **Issue Subcategory:** Searches

Inmate Information

Appeal Abuse: **Appeal Abuse Until:** **Appeal Flag:** **Appeal Flag Until:**
Special Needs:
Other Log Numbers:

Appeal History

Log Number	Issue	L1 Received	L1 Due	L1 Completed	L1 Disposition	L2 Received	L2 Due	L2 Completed	L2 Disposition
CAL-A-07-01891	PROGRAM	10/10/2007	11/23/2007	12/14/2007	GRANTED IN PART				
CAL-A-	WORK INCENTIVE								
CAL-A-06-01122	PROPERTY	04/27/2006	06/09/2006	06/28/2006	DENIED				
CAL-A-06-00814	PROGRAM					04/11/2006	05/23/2006	05/30/2006	DENIED
CAL-A-	MEDICAL								
CAL-A-05-00081	ADA	02/04/2005	02/28/2005	03/02/2005	DENIED				
CAL-A-04-01650	STAFF COMPLAINTS	12/17/2004	01/31/2005	04/18/2005	GRANTED IN PART				
CAL-A-04-01616	WORK INCENTIVE	12/08/2004	01/20/2005	01/18/2005	DENIED	02/02/2005	03/03/2005	03/17/2005	GRANTED IN
CAL-A-	LEGAL								
CAL-A-99-00049	DISCIPLINARY					01/15/1999	04/07/1999	03/25/1999	GRANTED

Screen Outs

Level	Received	Screened Out	Reason	Note
Level I	06/06/2008	06/06/2008	INCOMPLETE PROPERTY APPEAL - MISSING DOCUME	Cell search receipt issued to you on 6/02/08, and resubmit this
Level I	07/02/2008	07/02/2008	TIME CONSTRAINTS NOT MET	You had 15 days from 6/06/08, in which to obtain a copy of
Level I	07/22/2008	07/22/2008	NOT AUTHORIZED TO BYPASS ANY LEVEL	You need to fill out a new CDC 602 Form and only complete

Calipatria State Prison

07/23/2008

CALIFORNIA DEPARTMENT OF CORRECTIONS

Inmate / Parolee Appeals Tracking System - Level I & II

Statistic Sheet

Informal Level

-- Assignments --

Assigned	Assigned To	Replied

Received: Due: Completed: Disposition:

Level I

-- Assignments --

Assigned	Assigned To	Replied

Received: Due: Completed: Disposition:

Level II

-- Assignments --

Assigned	Assigned To	Replied

Received: Due: Completed: Disposition:

Level III

Completed: Disposition:

Calipatria State Prison

07/23/2008

CALIFORNIA DEPARTMENT OF CORRECTIONS

Inmate / Parolee Appeals Tracking System - Level I & II

Statistic Sheet

Staff Involved

Last Name	First Name	Job Classification	Resolution

Investigation Type:

Modification Orders

Level	Modification Order Type	Assigned To	Sent	Due	Completed	Grant Reason

115 Information

Administrative / Serious: 115 Log Number: Hearing Officer: Discovery:

Reimbursement

Cash Award: Amount Awarded: Reimbursement With Like Item(s):

Factor: Inmate Signed Waiver:

Comment:

Comment

CERTIFICATE OF SERVICE BY U.S. MAIL

Case Name: **Myers, Venson Lane v. Scribner, et al.**

Case No.: **08CV0117 W (WMc)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On August 21, 2008, I served the following documents:

DECLARATION OF D. BELL IN SUPPORT OF DEFENDANTS' MOTION TO DISMISS

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 110 West A Street, Suite 1100, P.O. Box 85266, San Diego, CA 92186-5266, addressed as follows:

Manual Notice List

Venson Lane Myers
CDCR # C-29600
Calipatria State Prison
P. O. Box 5005
7018 Blair Road
Calipatria, CA 92233-5005
In Pro Per

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on August 21, 2008, at San Diego, California.

J. Yost	J. Yost
Declarant	Signature

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